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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

JAMES KELLY,

X

3/24/2021 1:35 pm
For Online Publication Only
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

Plaintiff,

-against-

JUDGE JOHN LEO, ET AL.,

Defendants.

X

AZRACK, United States District Judge:

The Court's records reflect that the complaint in this action was filed on January 20, 2021.

(ECF No. 1.) Plaintiff paid the filing fee on January 27, 2021.

Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court - on motion or on its own after notice to the plaintiff - must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

Accordingly, if service is not made upon defendants by **April 20, 2021**, or plaintiff fails to show good cause why such service has not been effected, the complaint will be dismissed without prejudice.¹ **Plaintiff is to provide a copy of this Order to defendants along with the summonses and complaint and shall file proof of service with the Court.**

Plaintiff is required to advise the Clerk of Court of any changes of address. Failure to keep the Court informed of plaintiff's current address may result in dismissal of the case.

¹ Notably, on February 16, 2021, plaintiff filed an affidavit of service reflecting that he served un-issued summonses with the complaint. (ECF No. 9.) Such service does not comport with the requirements of Rule 4 and is a nullity. Plaintiff shall present a summons for each defendant for the Clerk of the Court to issue and, once issued, plaintiff shall effect service and shall file proof of such service with the Court.

Although plaintiff paid the filing fee, the Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that should plaintiff seek leave to appeal in forma pauperis, any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for the purpose of any appeal. See Coppedge v. United States, 369 U.S. 438, 444–45 (1962).

SO ORDERED.

Dated: March 24, 2021
Central Islip, New York

/s/ (JMA)
JOAN M. AZRACK
UNITED STATES DISTRICT JUDGE